

Internal Revenue Service

District  
Director

Department of the Treasury  
P.O. BOX 1202, C.F.O.  
Brooklyn, New York 11202

Date: AUG 06 1987  
Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(4) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated on [REDACTED] in the State of [REDACTED].

The purposes for which the corporation is organized are:

(a) to promote, encourage and provide lawful recreational activities in the area of [REDACTED].

(b) to promote, encourage and provide social and friendly intercourse among its members.

(c) to promote and encourage the preservation of the natural environment of [REDACTED].

(d) to provide assistance to its members and generally promote benevolence within the Association.

(e) to purchase, sell, mortgage and lease real property in carrying out the objects of the Association, on a non-profit making basis.

Additional information submitted disclosed:

(1) There are [REDACTED] lots served by the Association.

(2) There are no homes or buildings of any kind on the Association's property which lie adjacent to the lots.

(3) The lots adjoin [REDACTED].

(4) The Association currently provides no social or recreational activities.

(5) The Association was primarily formed and is currently operated for the benefit of the lot owners. The Association intends to prohibit trespassing, poaching, vandalism and any other unauthorized access to or activity on the Association property.

(6) The map of the area submitted does not indicate that it is a community comprising a geographical unit bearing a reasonable recognizable relationship to an area ordinarily identified as a governmental subdivision or district.

Section 501(c)(4) of the Internal Revenue Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it primarily engages in promoting in some way the common good and general welfare of the people of the community.

The concept of social welfare implies a service or program directed at benefitting the community rather than a private group of individuals.

Revenue Ruling 74-99, 1974-1 C.B. 131 states that a homeowners association must, in addition to otherwise qualifying for exemption under section 501(c)(4) of the Code, satisfy the following requirements: (1) It must engage in activities that confer benefit on a community comprising a geographical unit which bears a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof;...and (3) It owns and maintains only common areas or facilities such as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public and is not restricted to members of the homeowners association.

Since the area served by the Association can not be designated a community in that it is not a geographical unit bearing a reasonable recognizable relationship to an area ordinarily identified as a governmental subdivision or district, it does not meet the requirements of Revenue Ruling 74-99, 1974-1 C.B.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(4) of the Code and propose to deny your request for exemption under that section.

Revenue Ruling 69-281, 1969-1 C.F. 155 and Revenue Ruling 80-63 allow as an alternative to exemption under IRC section 501(c)(4), exemption under IRC section 501(c)(7), as a home-owners association whose primary function is to own and maintain certain recreational areas and facilities.

Since the Association does not provide any social or recreational areas and activity, it does not qualify for exemption under 501(c)(7).

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(7) of the code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

It appears that your organization may elect to file under section 528 to receive certain tax benefits which, in effect, permit the exclusion of exempt function income from gross income. The election to file under section 528 is to be made by filing Form 1120-H, U.S. Income Tax Return for Homeowners Associations. However, if you do not elect to file under section 528, you are required to file Federal income tax returns on Form 1120.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

  
District Director

Enclosure: Publication 892